

**INFORMATION PAPER****Liability Rules for Driving a Privately Owned Vehicle (POV) in Korea**

**1. Purpose.** To provide information regarding the application of Republic of Korea (ROK) traffic laws to Soldiers and family members involved in off-post POV accidents.

**2. BLUF.** Soldiers and family members involved in traffic accidents are subject to ROK law. This may result in significant criminal, civil, or administrative penalties. It is critical that commanders are aware of these potential liabilities and inform their Soldiers and family members of the ramifications of driving in Korea.

**3. SOFA Jurisdiction.**

a. The ROK retains primary jurisdiction for most off-duty traffic accidents.

b. The U.S. military may retain primary jurisdiction in official duty traffic accidents, including those occurring in a POV. Retaining jurisdiction requires a general officer to issue an Official Duty Certificate to the ROK Ministry of Justice (MOJ) attesting that the Soldier driver was not conducting personal business, or substantially deviating from acceptable routes and activities

**4. Criminal Penalties.**

a. A driver involved in an accident may be punished with imprisonment and fines of up to five years and 15 million Won, respectively. Drivers fleeing the scene of the accident face increased punishment (the maximum sentence is life imprisonment).

b. However, a driver cannot be criminally prosecuted if the driver reaches a private settlement with the victim. Also criminal prosecution is prohibited if the driver is insured by a policy that pays all medical expenses regardless of fault or agreement of parties. This “no-prosecution” provision does not apply to a fatality case or if the driver does one of the following:

(1) Causes injury and flees the scene without rendering assistance or moves the victim from the scene of the accident and abandons him;

(2) Ignores a traffic signal or device, or violates the direction of a police officer;

(3) Crosses the center line, or makes an illegal crossing or U-turn;

(4) Exceeds the speed limit by more than 20 kilometers-per-hour;

(5) Makes an illegal lane change;

(6) Crosses a railroad crossing in violation of the Road Traffic Law;

(7) Fails to protect a pedestrian in a crosswalk;

(8) Operates a motor vehicle without a proper license;

(9) Operates a vehicle under the influence of alcohol or drugs.

**5. Private Settlements.** A private settlement is not considered bribery or an admission of guilt, but is a very important factor in the Korean justice system. A private settlement can make the difference between a small fine or a suspended sentence and imprisonment when the court considers civil liability. In accidents with no injuries, the investigating Korean National Police Officers usually encourage settlements between parties. In a minor case, the investigating police officer may encourage a private settlement "on the spot," which may eliminate the need to write a report.

**6. Administrative Penalties.** POV owners or operators with delinquent traffic citations and notices of violation will be flagged in BIDS to prevent the sale, export, or registration of the vehicle until the owner provides proof of payment or final disposition of the tickets. Those involved in a vehicle accident will be placed on International Hold pending a final determination of liability by the Ministry of Justice.

**7. Civil Penalties.** Civil penalties resulting from an accident or traffic infraction could range from a fine to imprisonment. A civil fine may be adjudged even if settlements have been made between drivers.

**8. Compulsory Auto Liability Insurance.**

**a.** Soldiers and their families must maintain minimum liability insurance required by ROK law. Failure to do so may result in license suspension or other penalties.

**b.** Policies must be purchased from companies licensed by the ROK government. Each company provides the minimum coverage at standard premium rates and there are a number of U.S. and foreign insurance companies operating in Korea.

**c.** Although the minimum coverage can change by ROK Presidential decree, the current minimum insurance requirement is: unlimited personal loss (death or other injuries); and property loss of up to 10 million won per accident.

**d.** Insurance policies generally cover the injury and property damage claims, and may cover civil fines, depending on the type of coverage purchased. However, insurance policies generally do not cover criminal penalties or private settlements.

Prepared by: MAJ Susan Castorina/732-7501

Approved by: LTC Mike Lutton/732-8338